

## Message Text

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ACTION SCS-03

INFO OCT-01 EA-07 ISO-00 L-03 PM-04 /018 W

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P 140742Z AUG 75

FM AMCONSUL HONG KONG

TO DEPARTMENT OF JUSTICE PRIORITY

INFO SECSTATE WASHDC PRIORITY 6403

SECDEF PRIORITY

US ARMY CID COM PRIORITY

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JUSTICE FOR JAMES HERGEN, CIVIL DIVISION, AND JAMES GRAHAM,  
CRIMINAL DIVISION, ONLY

COMUSACDIC FOR CIOP-FR, MR. SKETO, ONLY

FROM RISTAU

E.O.11652; NA

TAGS: CGEN

SUBJECT: U.S. V. SIMMONS

REF: STATE 190719

1. RISTAU CONDUCTED EXTENSIVE DISCUSSION WITH INSPECTOR  
BECKER, ROYAL HONG KONG POLICE (RHKP), RE INQUIRIES  
SUBMITTED BY GRAHAM:

A) BECKER PREPARED TRAVEL TO WASHINGTON AT INVITATION  
DOG TO ASSIST IN CRIMINAL PROSECUTION. AS A MATTER OF PURE  
FORMALITY , AAG, CRIMDIV, WOULD HAVE TO EXTEND FORMAL  
INVITATION TO COMMISSIONRE, RHKP, AND REQUEST HIS  
APPROVAL, WHICH WILL BE GRANTED. BECKER ALSO PREPARED  
TO BRING WITH HIM PART OF HIS OFFICIAL RECORDS.

B) ON AUGUST 11, 1975 BECKER ADDRESSED IDENTIAL  
LETTERS TO SEVEN BANKS, READING AS FOLLOWS:  
"I REFER TO TWO SEARCH WARRANTS (WRIT NOS. 1213 AND  
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1214) DATED THE 7TH APRIL, 1975. RESPECTIVELY WHICH WERE

EXECUTED AT YOUR BANK BY DETECTIVE INSPECGOR V.S. BECKER OF COMMERCIAL CRIME OFFICE, ON THE STRENGTH OF WHICH PHOTO-STAT COPIES OF DOCUMENTS STATEMENTS AND VOUCHERS RELATING TO THE ABOVE ACCOUNTS WERE OBTAINED.

" I HAVE NOW BEEN APPROACHED BY THE UNITED STATES GOVERNMENT TO SOLICIT THE COOPERATION OF YOUR BANK IN PROVIDING A BANK OFFICER AS A WITNESS IN CRIMINAL PROCEEDINGS IN THE USA WHO WILL BE ABLE TO IDENTIFY THE PARTICULAR RECORDS OBTAINED AS THAT OF YOUR BANK, STATE THAT SUCH RECORDS WERE MADE IN THE REGULAR COURSE OF BUSINESS, AND THAT ENTRIES ON EACH RECORD ARE MADE AT OR ABOUT THE TIME OF TRANSACTION THEY APPEAR TO REFLECT.

" IF YOUR BANK IS WILLING TO PROVIDE SUCH A WITNESS TO TESTIFY, THERE ARE TWO ALTERNATIVE METHODS BY WHICH THE EVIDENCE COULD BE INTRODUCED, FIRSTLY BY LOCAL DEPOSITION OR SECONDLY BY TRAVELING TO AMERICA AND GIVING VERBAL EVIDENCE. IF A DEPOSITION IS PREFERRED, THE DATE OF TAKIN OF THE DEPOSITION WILL BE ABOUT SEPTEMBER OR OCTOBER. 1975. THE TRIAL ITSELF MIGHT BEGIN IN LATE OCTOBER OR NOVEMBER, 1975.

" IN THE FIRST INSTANCE I WOULD BE GREATFUL IF YOU WOULD INDICATE TO ME WHETHER OR NOT YOU WOULD BE WILLING TO PROVIDE SUCH A WITNESS AND OF SO WHICH METHOD YOU WOULD PREFER TO BE USED".

C) TO DATE, NO FORMAL WRITTEN RESPONSES OBTAINED, BUT BECKER HAS HAD INFORMAL TELEPHONIC RESPONSES FROM SEVERAL BANKS EXPRESSING RELUCTANCE TO PRODUCE VOLUNTARILY IN U.S. RECORDS WHICH THEY PRODUCED PURSUANT TO WARRANTS IN HONG KONG. THEY BELEIVE THAT PROTECTION OF LOCAL LAW NOT AVAILABLE AGANINST PRODUCTION ABROAD. IN ADDITION, BANKS HAVE EXPRESSED APPREHENSION ABOUT EXTENT OF CROSS EXAMINATION TO WHICH THEIR REPRESENTATIVES MIGHT BE SUBJECTED IN U.S.

D) HAVE EXPRESSED TO BECKER VIEW THAT USG CAN PROVIDE ADEQUATE PROTECTION TO BANKS BY UTILIZING LETTERS ROGATORY AND CAUSING LOCAL COURT TO ORDER PRODUCTION OF RECORDS IN HONG KONG TO U.S. REPRESENTATIVE. THUS PRODUCTION TO USG, RPT USG, WOULD BE PURSUANT TO LAWFUL ORDER. LIMITED OFFICIAL USE

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WE WOULD STILL HAVE TO RELY, HOWEVER, ON THEIR VOLUNTARY COOPERATION THEREAFTER TO SEND AUTHENTICATING WITNESSES TO U.S. TO ATTEND AT TRIAL. AS REGARDS FEARS OF EXTENSIVE CROSS EXAMINATION, HAVE ASSURED BECKER THAT CROSS EXAMINATION UNDER U.S. LAW LIMITED TO MATTERS INQUIRED INTO UPON DIRECT EXAMINATION, AND THAT GOVERNMENT WOULD STOP EFFORTS BY DEFENSE TO GO INTO MATTERS BEYOND SCOPE OF DIRECT.

E) BASED ON FOREGOING, BECKER URGED I DRAFT LETTERS TO ALL SEVEN BANKS WHICH HE WILL PERSONALLY HAND CARRY TO THEM. LETTERS ARE TO EXPLAIN LETTERS ROGATORY PROCEDURE WHICH I ENVISAGE, AND GIVE EXPLANATION OF SCOPE OF CROSS EXAMINATION. AM PREPARED TO DO SO, IF CRIMDIV WISHES ME TO PROCEED. IF SO, HERGEN REQUESTED CABLE TO ME SOONEST SAMPLES OF QUESTIONS PUT TO AUTHENTICATING WITNESSES TO BE FOUND IN FLU FILE 163-30-0 ATTACHED TO LETTER FROM FORMER U.S. ATTORNEY FLANNERY TO DR. VELEFF IN ZURICH (APPROXIMATELY AUGUST/SEPTEMBER, 1969).

F) BECKER OPTOMISTIC THAT WITH THESE ASSURANCES AND LETTER ROGATORY PROTECTION, MOST BANKS WILL EXTEND FULL COOPERATION.

2. HERGEN PLEASE CABLE ALSO IDENTITY OF MISSING EXHIBITS FROM COPIES COURT DOCUMENTS WHICH MAJOR ROSE HAD TRANSMITTED TO DOJ.

3. INFORM HELLA RISTAU PLANS RETURN ON OR ABOUT FRIDAY NEXT. FLIGHT AND ETA WILL FOLLOW NEXT CABLE.  
CROSS

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 14 AUG 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** CunninFX  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975HONGK09371  
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**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Office:** ACTION SCS  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
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**Reference:** 75 STATE 190719  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** CunninFX  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 23 JUN 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <23 JUN 2003 by CunninFX>; APPROVED <07 NOV 2003 by CunninFX>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
06 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
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**TAGS:** CGEN, HK  
**To:** JUS  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006